

The sale of cattle for its members on a commission basis by a section 501(c)(5) agricultural organization constitutes an unrelated trade or business under section 513 of the Code.

Advice has been requested whether an organization exempt from Federal income tax under section 501(c)(5) of the Internal Revenue Code of 1954 as an agricultural organization carries on unrelated business within the meaning of section 513 of the Code where it conducts a marketing activity as described below.

The organization's purpose is to promote the betterment of conditions of breeders of Angus cattle and to improve the breed generally. Its activities in furtherance of this purpose are: encouraging junior breeder programs by conducting shows, awarding trophies, and cooperating with 4-H and Future Farmers programs; conducting an educational program in conjunction with its annual meeting; disseminating general information concerning Angus breeding through an annual directory and a monthly newsletter; cooperating with other agencies interested in promoting agriculture; and sponsoring shows and displays of prize cattle. As one of its lesser activities the organization regularly sells cattle for its members on a commission basis.

An organization exempt from Federal income tax under section 501(c)(5) of the Code is subject to a tax on unrelated business taxable income imposed by section 511 of the Code.

Section 513 of the Code defines the term 'unrelated trade or business' as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt functions.

Section 1.513-1(a) of the Income Tax Regulations provides that gross income of an exempt organization subject to the tax imposed by section 511 is, with certain exceptions, includible in the computation of unrelated business taxable income if (1) it is income from trade or business, (2) such trade or business is regularly carried on by the organization, and (3) the conduct of such trade or business is not substantially related (other than through the production of funds) to the organization's performance of its exempt functions.

Section 1.513-1(d)(2) of the regulations provides that a trade or business is 'substantially related' to exempt purposes when the business activity has a substantial causal relationship to the achievement of the exempt purpose. Moreover, the conduct of trade or business from which the income is derived must contribute importantly to the accomplishment of the organization's exempt purpose.

In this case, the sale of cattle constitutes trade or business that is regularly carried on. The sale of members' cattle for a commission is not an activity coming within the ambit of section 501(c)(5) of the Code. Rev. Rul. 66-105. C.B. 1966-1, 145. The sale itself neither promotes the betterment of conditions of the cattle breeders nor improves the breed generally but is carried on for the convenience of members and the production of income. Furthermore, the sale is an activity having no causal relationship to the performance of the organization's exempt purpose and it does not contribute importantly to the accomplishment of that purpose.

Accordingly, the marketing of livestock by this organization constitutes unrelated trade or business under section 513 of the Code.